

REMARKS

By this amendment, claims 1 through 24 are pending, of which claims 1, 9, 16, 21, and 22 are currently amended. Care has been exercised to avoid the introduction of new matter. Adequate descriptive support for the present Amendment should be apparent throughout the originally filed disclosure, e.g., paragraph [27] of the specification provides support for the prioritization of intra-VPN traffic over extra-VPN traffic. Applicant submits that the present Amendment does not generate any new matter issue.

The Final Office Action mailed July 24, 2006 rejected claims 1, 3 through 9, 11 through 16, and 18 through 22 under 35 U.S.C. §102(b) as anticipated by *Seid et al.* (US 5,768,271), claim 23 as obvious under 35 U.S.C. §103(a) based on *Seid et al.* (US 5,768,271), and claims 1 through 24 as obvious under 35 U.S.C. §103(a) based on Admitted Prior Art (APA) in view of *Seid et al.* (US 5,768,271). The Board of Appeals and Interferences (“The Board”) sustained the Examiner’s rejections in its Decision of July 30, 2010.

Applicant asserts that the pending claims are now allowable in view of the current amendments. As currently amended, each of the claims recites, *inter alia*, “wherein intra-VPN traffic is given precedence over extra-VPN traffic by **assigning a higher priority to the first access network logical connection,**” and that “intra-VPN traffic and the extra-VPN traffic are **logically separated into different paths,**” or something similar.

Thus, rather than merely reciting the intra-VPN traffic and extra-VPN traffic as transmitted on first and second logical connections, the claims now further recite, in one way or another, that the traffic is on different paths and that intra-VPN traffic has a **higher priority** than extra-VPN traffic. This amendment clearly distinguishes over the applied reference to *Seid et al.* and also distinguishes over the Board’s rationale in its Decision of July 30, 2010.

Figure 1 of *Seid et al.*, relied on by the Board as teaching intra-VPN traffic within VPN3 and extra-VPN traffic from VPN3 to/from Node D, is unconcerned with any priority at all, let alone that intra-VPN traffic has a **higher priority** than extra-VPN traffic. Accordingly, the Board's rationale in the Decision of July 30, 2010 is inapplicable to the claims as currently amended.

While the Examiner identified, in the Final Office Action, col. 10, lines 40-65, and col. 12, lines 20-30, of *Seid et al.* as teaching such a priority, the Examiner's reliance on these cited portions of *Seid et al.* is, respectfully, in error. The cited portions of the reference discuss congestion and how it relates to total allocated bandwidth. For example, at col. 12, lines 28-30, there is a disclosure of allowing a non-congested user to have a VP SR higher than the VP-bandwidth it has reserved. However, nowhere in the cited portions of *Seid et al.*, or in any other portion of *Seid et al.*, is there any disclosure or suggestion of the claimed partitioning, "wherein **intra-VPN traffic is given precedence over extra-VPN traffic by assigning a higher priority to the first access network logical connection**" or "a plurality of ingress routers coupled to the one or more egress routers for communication utilizing a network-based VPN protocol that **logically partitions intra-VPN and extra-VPN traffic, such that the intra-VPN traffic and the extra-VPN traffic are logically separated into different paths, whereby denial of service attacks on said access link originating from sources outside the VPN are prevented,**" as in claim 1, for example. The other independent claims have similar features.

Therefore, *Seid et al.* does not, and cannot, anticipate claims 1, 3 through 9, 11 through 16, and 18 through 22 under 35 U.S.C. §102(b), and *Seid et al.* does not, and cannot, make the subject matter of claims 1 through 24 obvious, within the meaning of 35 U.S.C. §103(a), with or without APA.

Accordingly, withdrawal of the rejections of claims 1 through 24 under 35 U.S.C. §102(b) and 35 U.S.C. §103(a) is respectfully solicited.

Therefore, the present application, as amended, overcomes the rejections of record and is in condition for allowance. Favorable consideration is respectfully requested. If any unresolved issues remain, it is respectfully requested that the Examiner telephone the undersigned attorney at (703) 519-9952 so that such issues may be resolved as expeditiously as possible.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 504213 and please credit any excess fees to such deposit account.

Respectfully Submitted,

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Date

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